

specific for either foreign (allogeneic or xenogeneic) or self-antigens. Applicant therefore maintains that inventions of Groups I-VIII are not independent and restriction is not proper.

Furthermore, under M.P.E.P. §803, the Examiner must examine the application on the merits if examination can be made without serious burden, even if the application includes claims to distinct inventions or independent inventions. That is, there are two criteria for a proper requirement of restriction: (1) the invention must be independent and distinct, and (2) there must be a serious burden on the Examiner if restriction is not required.

Applicant respectfully submits that there would not be a serious burden on the Examiner if restriction were not required, because a search of the prior art relevant to the non-elected groups I-IV and VI-VIII would not require a serious burden once the prior art relevant to the elected claims of Group V has been identified.

Therefore, there would be no serious burden on the Examiner to examine groups I-VIII together in the subject application. Hence, the Examiner must examine these groups on the merits.

In view of the forgoing, applicant maintains that restriction is not proper under 35 U.S.C. §121 and respectfully requests that the Examiner reconsider and withdraw the requirement for restriction.

Applicant further notes that in section 2 of the September 30, 2002 Office Action, the Examiner acknowledges applicant's claim for foreign priority based on an

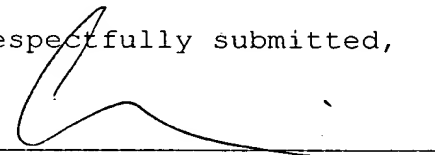
Nicole Suslu-Foca
Serial No.: 09/746,311
Filed: December 21, 2000
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application filed in the United States on June 15, 2000, and states that the applicant has not filed a certified copy of that application, i.e., PCT/US00/16594 (the '594 application). Applicant maintains that a certified copy of the '594 application is not required. The Examiner, in a November 4, 2002 telephone conference with Dr. Anne Marinovic of the undersigned's office, confirmed that no certified copy of the '594 application is required. As a courtesy, however, applicant attaches hereto a non-certified copy of the '594 application (**Exhibit A**).

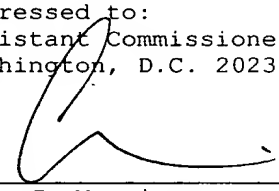
If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorneys invite the Examiner to telephone them at the number provided below.

No fee, other than the \$200.00 fee for a two-month extension of time, is deemed necessary in connection with the filing of this Communication. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:
Assistant Commissioner for Patents,
Washington, D.C. 20231.


Alan J. Morrison
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12/30/02
Date

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